

The Salisbury Planning Board held its regular meeting on Tuesday, February 10, 2004, in the City Council Chamber of the Salisbury City Hall at 4:00 p.m. with the following being present and absent:

PRESENT: Fred Dula, Len Clark, Mitzi Clement, Lou Manning, Ken Mowery, Brian Miller, Rodney Queen, Jeff Smith, Jerry Wilkes, Eldridge Williams

ABSENT: Sandy Reitz, Sean Reid

STAFF: Dan Mikkelson, Joe Morris, Harold Poole, David Phillips, Janet Gapen, Diana Moghrabi

The meeting was called to order by Chairman Dula. The minutes of January 13, 2004, were approved as published.

ZONING MAP AMENDMENTS

Z-20S-03 Garris Brothers, LLC – 2490 Statesville Blvd. Salisbury, NC 28144

Location: 2490 Statesville Blvd.(12-foot strip adjoining Hendrix BBQ property)

Size: Approximately 1,524 Sq. Ft.

Existing Zoning: R-20 – Single Family – 20 Residential District

Proposed Zoning: BRT-S – Special Retail Trade Business District

Special Uses: Parking for restaurant to East of the site
R-20 uses

Special Condition: Site plan review

(a) **Chairman Dula** convened a Courtesy Hearing on Z-20S-03.

Those speaking in favor of the zoning change request:

John Dees, representative of the property owner, stated that there was an oversight of this 12 foot strip when rezoning Z-19S-03 and it should have been included in the original application. Therefore, a new application was submitted under the name of Garris Brothers, LLC for the same rezoning. He wanted to clarify that this Z-20S-03 is part of Z-19S-03. This is a corrective measure.

Those speaking in opposition to the zoning change request:

None

The chairman closed the Courtesy Hearing on this case.

(b) **Board Discussion:**

Len Clark clarified that this is the same use and condition proposal as Z-19S-03, with the condition of a site plan review.

Harold Poole stated that this case is expected to go to City Council March 2, 2004.

Lou Manning moved to recommend rezoning the property as proposed. The motion was seconded with all members voting AYE.

Z-1-04 Lucy T. Welch Estate – 200 & 204 S. Merritt Ave.

Location: 200 & 204 S. Merritt Ave. (two lots)
Size: Parcel 140-1 - .22 acre, Parcel 140 - .29 acre
Existing Zoning: R-6 – Two-Family Residential District
Proposed Zoning: BRT- Retail Trade Business District

Janet Gapen, Planner II with the City of Salisbury, made a presentation of the property for case number Z-1-04.

(a) **Chairman Dula** convened a Courtesy Hearing on Z-1-04.

Those speaking in favor of the zoning change request:

Brenda Whirlow, 2315 Stokes Ferry Rd., daughter of Lucy T. Welch, believes that the surrounding businesses, the proximity of the V. A. Hospital, along with an alley that runs beside the property, all generate a high amount of noise and traffic that interfere with the quality of the property as a residential site.

Those speaking in opposition to the zoning change request:

Norde Wilson, 501 Maupin Ave, property owner in the same block as Z-1-04, stated that he is generally in favor of a property owner doing what they like with their property without interference except when they are requesting a definite intrusion into the character of a neighborhood. This is what he believes is the situation in this case. The houses are nice and the neighborhood is well-kept, and a good neighborhood to live in. He would not be against a business like a beauty salon; however, the businesses that can operate in a BRT zone (alcoholic beverages store, automobile parking lots, used car lots, filling stations, and pool halls) would be against the nature of the neighborhood. This would be in the front entrance, and a direct imposition to the people who live in the neighborhood to have something of a commercial nature such as these types of businesses he mentioned on that corner. He has never heard a complaint about the alley traffic.

The chairman closed the Courtesy Hearing on this case.

(b) Board Discussion:

Ken Mowery commented that he sees this as a clear encroachment into an existing viable neighborhood. It is unfortunate that these properties are experiencing

these problems but rezoning these properties would only move that same problem deeper into the neighborhood. Rezoning would not change the traffic issues on this street. If business would spring-up on these two lots, then it may even make the traffic problems worse for the rest of the neighborhood. Mr. Mowery said he would be against the rezoning.

Ken Mowery made the motion to deny the rezoning of Z-1-04 from R-6 to BRT. **Lou Manning** seconded the motion with all members voting AYE.

Harold Poole then explained to the applicant what her options were if she cared to appeal the recommendation to deny rezoning.

Z-2-04 Salisbury Village Center – Part of 1000 block of Mooresville Hwy.

LOCATION: Part of 1000 block of Mooresville Hwy

PART A:

Size: Approximately 4 acres

From: R-8 Single Family Residential

To: B-7 Limited Business

PART B:

Size: Approximately 12 acres

To: Add HD – High Density Overlay

Presentation by **Harold Poole**, Sr. Planner for the City of Salisbury, who pointed out the map is divided into two parts. Mr. Poole explained the meaning of High Density Overlay and how this would mean 17 units per acre instead of the currently allowable 11 units per acre. He offered a synopsis of zoning classifications and land uses in the area.

(a) **Chairman Dula** convened a Courtesy Hearing on Z-2-04.

Those speaking in favor of the zoning change request:

Lane Yates, PO Box 2097, Cornelius, 28031 - Yates Development, suggests that what is being offered is a well-planned, mixed-use development. He is planning to submit a site plan named The Salisbury Village Center. It will include 200 apartments, a destination mall with a fountain in the front-classy in style. He views this development plan as an improvement to this area. He anticipates, also, medical offices, and franchise restaurants as part of the development. The project follows specific city development guidelines – as referenced in the Vision 2020 plan. He compared the plan to a Salisbury version of Birkdale Village. Mr. Yates met with the Castlewood neighborhood at their request to discuss the plan.

John Casey, 15 Pickett Ave, Spencer - John Casey Realty, broker for this property representing Food Lion – Mr. Casey states that there are 26 acres and it is currently under contract with Lane Yates. There are already 22 acres of this property zoned B-7; any developer can do anything that the citizens have expressed as a concern, such as taking the trees down, an increase in noise, and the placing of apartments directly at their property lines. He feels that

Lanes Yates is working with the community to provide a pleasant development within the city's guidelines. He encourages more dialogue with the current neighbors to satisfy their concerns.

Bill Burgin, 317 Mahaley Ave., senses the pressure for the city to balance single-family residential against the development toward streets like Jake Alexander Blvd. The question before the Planning Board is, "What is the best way to develop this area?" This is probably the type of development that the city will be faced with in the future. He sees a lot of potential in this project; it is valuable land, and it will take a high density development to make it profitable.

Those speaking in opposition to the zoning change request:

Robert Wilhelm, 502 Swain Ct., states that he is representing the Castlewood neighborhood. They did meet last week with a number of city staff and developers to discuss this proposed development. The neighborhood is a small development that represents a collective investment of over five million dollars by 42 families. They feel they have a responsibility to protect that ownership. For many this investment in their homes represents their entire life savings. It is their unanimous view that this zoning change poses a threat to their property values. They feel that the plans presented are too vague and incomplete. For this reason they do not want to lift the buffer and density requirements provided by the current zoning. They need more detail in order to make better decisions. There is a concern about three-story high buildings overlooking their private property. There are concerns about increased traffic and safety issues. There are concerns about runoff water due to the condition of the soil (bull tallow). The promise of upscale residences is diluted because the view from the "upscale windows" would be junk cars, the top of a strip mall, and high voltage wires. They do not feel that this area would be pedestrian friendly-mainly due to the high volume of traffic and an 8-lane highway. They request that the zoning be left "as is."

Karen Young, 706 Colby Circle, states that she is not against mixed-use. She has personally been before the planning board no fewer than eight times. She can recall a number of promises that were not followed through. There are concerns about losing the buffer currently protecting the property owners. Results could have a negative impact on homeowners if this rezoning occurs. Mrs. Young has served on several boards for the City of Salisbury, including City Council. She wants insurance that they will be protected from encroachment and deterioration.

Paul Daniels, 106 Swaim Ct., a 91-year old former builder, also has concerns about losing the buffer that presently protects the neighborhood residents. Mr. Daniels does not want taller buildings looking down on his property.

Betty Hubbard lives in the 700 unit of Castlewood. She states that the proposed zoning encroaches directly on her property. Her property would be "sandwiched" between two apartment developments.

Chris Price, 18 Sunset Dr., bought his home based on the fact that there was a buffer in place. He currently experiences a lot of noise from the Food Lion store, but feels if the trees were removed the noise level would be intolerable and he would lose his privacy.

George Noble, 204 Swain Ct., is a former Charlotte resident who joked that *its* Planning Board was in the pocket of developers. The small town experience was his reason for moving to Salisbury and hopes that this Planning Board will protect its citizens from all the negative issues that have been discussed.

Marion Spain, 150 Scott Trace Dr., stated that she and her husband own a unit at 900 Colby Circle in Castlewood. Her 86-year-old mother lives there. They have observed that since the apartments have been built nearby there has been an increase in foot traffic that interrupts her privacy. They also have concerns about increased traffic and safety with this new development proposal.

Warren Young, 706 Colby Circle resident, owner of a single-family residence. He is concerned about the fact that there are no written guarantees to protect the current residents. He pointed out lost “good intentions” as a result of developers going bankrupt in the past. He reiterated the concerns of the others speaking against the development.

Chairman Dula acknowledged that the board understood the concerns and asked those against the zoning changes to stand. Approximately 25-30 individuals in the chamber stood. Chairman Dula asked that those in favor please stand and 3 people stood.

The chairman closed the Courtesy Hearing on this case.

(b) Board Discussion:

Rodney Queen referred to research he had done when he had an involvement with this property; he elected not to pursue the purchase of the property. One of the biggest misconceptions in discussions so far, has been about the buffering concerns. Once the area is rezoned, there is still a buffering requirement. On a site plan review, the Planning Board would have an opportunity to increase the size of the buffer. The way the property is currently zoned does not protect the properties from the undesirable developments that could be built there. One positive thing that could be done is to rezone the particular areas so a proper buffer would be required; that situation does not exist with the R-8 zoning. He feels this development makes use of the Vision 2020 plan. With the HD Overlay you are looking at going from 187 apartments to 272 apartments in this area and allowing for the proper buffering. He feels that the increase in traffic on Jake Alexander Blvd. is positive for the growth of business and the growth of the city, and this is the purpose of Jake Alexander Blvd.

Jeff Smith asked staff to address the traffic signal issue. **Dan Mikkelsen**, City Engineer and liaison to DOT, responded that the intersection of Castlewood Dr. and Jake Alexander Blvd. has had numerous requests for a signal installation. The City of Salisbury has evaluated that intersection and determined that the traffic generated by Castlewood Dr. is not enough to warrant putting a signal there; it would interrupt traffic flow on Jake Alexander Blvd. As the commercial development across the street finishes, there may be enough to then warrant a traffic signal. If these 26 acres are developed, then Mr. Mikkelsen anticipates there would be enough traffic generated to warrant a traffic signal. DOT would probably have the developer install the signal.

Jeff Smith wanted to know more about the “jut out” that backs up to Colby (zoned RD-A) and how RD-A would be affected by the HD Overlay. Mr. John Casey offered some history about this section of land and Harold Poole explained the HD Overlay. The “jut out” could be offered as a buffer.

Brian Miller inquired about the development entrance and if it would come through the Castlewood entrance. It was decided that the entrance would be determined by the site plan. He acknowledged that B-7 is in place and some of the issues that are opposed already exist. The real issue is the density piece. He would prefer to go to committee, but recognizes Mr. Yates’ request to expedite a decision and will offer a compromise. If you do not offer HD here, then where else in the city could it be offered? He could support HD, if a buffer could be included for the neighborhood.

Lou Manning asked **Harold Poole** to clarify if the site plan review can address the neighborhood’s concerns about the buffer and that something is needed in writing for them.

Jeff Smith acknowledged the vagueness issues as normal for the Planning Board. He feels that the Planning Board can protect the residents with a site plan review. The next step in the process will reveal more details. Mr. Smith made a motion to approve the rezoning of the 100 ft strip from R-8 to B-7. The motion carried as submitted with 9 members voting AYE and one NAY. Mitzi Clement voted to Deny. Part A of Z-02-04 was approved.

Jeff Smith then made a motion to approve the HD Overlay on Part B, excluding the section zoned RD-A (“jut out”) on the southern end of the property.

There was a discussion on RD-A allowances, buffering, and HD Overlay.

The motion carried as submitted with 8 members voting AYE and two NAY. **Jerry Wilkes** and **Len Clark** voted to deny.

This case will now be referred to City Council and the zoning sign on Hwy 150 will reflect the date of the Public Hearing.

GROUP DEVELOPMENT SITE PLAN

G-01-76 Rowan Regional Medical Center, 612 Mocksville Ave.

Ken Mowery requested to refuse himself from the board for this case. Motion was seconded carried with all members voting AYE.

David Phillips, Zoning Administrator for the City of Salisbury, made a presentation on the project. The Technical Review Committee recommends that the plans be approved as submitted with the alternate methods for compliance for landscaping. One other condition is that the three proposed driveways on Rutherford St. (two are allowed) be allowed through a variance.

Those speaking in favor of the improvements:

Leroy Kirk, Sr. Vice President for Operations, who is speaking on behalf of Rowan Regional Medical Center. The emergency department is currently built to support 26,000 patients per year. They are approaching twice as many patients being seen in that ER. The emergency department is now 10,000 sq. ft., the proposal is offering 35,000 sq. ft. In addition, there will be 60 beds added above the emergency department that will allow more private patient accommodations. Acute care is better facilitated with private beds. Limited areas will be semi-private. Studies have been conducted before making these decisions, including the addition of 34 private medical-surgical beds, and a section dedicated to women's health, which will be located in the third floor extension.

George Busby, Architect, residing at 226 Confederate Ave, spoke of his family history with the hospital; he was born there, his father was a doctor there, and his grandfather helped to start the hospital. His brother owns property at 901 W. Henderson, which is on the corner of Rutherford. He is highly in favor of the plan, which solves a number of problems for the neighborhood.

Those speaking in opposition to the improvements: none

Board Discussion

Rodney Queen made a motion to approve as submitted and Jerry Wilkes seconded the motion. The motion carried as submitted with 9 members voting AYE. **Ken Mowery** abstained and a motion was made to have Mr. Mowery rejoin the Planning Board for the next case. This was approved.

G-19-02 Eagles Nest II – 319 East Liberty Street

David Phillips made a presentation on this site plan that had already been approved by Planning Board and City Council. The plan has returned because time expired in November of 2003. The plan still meets all requirements.

Those speaking in favor of the improvements:

Chris Bradshaw, Board Member of Shelter Ministries, which is the holding corporation for Rowan Helping Ministries properties, requesting re-approval.

George Busby, Architect, 226 Confederate Ave, believes he gave the best suggestions for that site with the budget they offered.

Those speaking in opposition to the improvements: none

Board Discussion

Len Clark made a motion to approve as submitted. The motion was seconded by Lou Manning with all members voting AYE. (10-0)

G-05-94 Town Creek Commons – out parcel #2 - O’Charley’s

David Phillips made a presentation. He stated that this was previously approved by both Planning Board and City Council; however, they exceeded the time allowed and are presenting some modifications. The building faces Innes St. but now is oriented toward I-85. Staff recommendation is to approve as submitted.

Those speaking in favor of the improvements:

Joey Stewart with O’Charley’s Real Estate would like to begin construction later in February and open in late June or first part of July.

Those speaking in opposition to the improvements: none

Brian Miller wanted to go on record as wishing “we had done this differently.”

Ken Mowery moved for approval as submitted and Lou Manning seconded the motion with all members voting AYE. (10-0)

G-12-00 Pinnacle Office Park, Phase II – 300 block of W. Jake Alexander Blvd.

David Phillips made a presentation on this site plan. Landscaping had to be done with alternate methods of compliance because of previous decisions connected to the site. Staff has reviewed the plan and is recommending approval as submitted.

Those speaking in favor of the improvements:

Chuck Harriss, with Fisher-Harriss Development, stated that additional landscaping would be added to what is required, and that John Leatherman had added some landscaping and fencing in the back to separate this development from the Ridgewood neighborhood.

Those speaking in opposition to the improvements: none

Board Discussion

Rodney Queen commented that the alternate method of compliance as related to landscaping often adds better landscaping than what is required. He thinks it looks great and Mr. Queen made a motion to approve as submitted. **Brian Miller** seconded the motion with all members voting AYE. (10-0)

COMMITTEE REPORTS

Open Space – Legislative Committee B, **Jeff Smith**, Chair, reported that the committee did not feel that now was an appropriate time to move forward with open space in view of the current efforts to rewrite the city code. Committee members are serving on the Land Development Ordinance Committee; therefore, Mr. Smith feels that open space will be covered in that process.

Rodney Queen said they did have a lot of good meetings on the subject and it will be beneficial.

Ethical Principles – Special Committee, Sandy Reitz, Chair – **Brian Miller** said that there are some issues relative to the way the ethics suggestions were written. There were debates on:

- 1) Whether or not a board member should be excluded entirely from proceedings or whether they should remove themselves from the room and from the discussion.
- 2) How would you define the word advocate?

Rodney Queen felt that when you are on the board and you remove yourself, you become a citizen and put confidence in the Board that they will make a good decision. There are times when a board member may have expertise that can be offered as a citizen. He would rather support come from the floor, in an open environment, rather than behind closed doors.

Harold Poole would disagree based upon The American Planning Associations thoughts that such a person would have an undue influence on the Planning Board. He recently changed his opinion about the issue and would prefer the person leave the room entirely.

Ken Mowery agrees largely with Mr. Poole, but a member can often be the individual with the answers.

Brian Miller feels that as long as there is sufficient disclosure about a member's involvement that would be enough.

Chairman Dula requested a motion to go past 6:00 p.m. A motion was made and seconded with all members voting AYE.

Downtown Rezoning Committee (B-6 to B-5 Along N. Main, North of Liberty Street)

Committee 2 was assigned to be the Downtown Rezoning Committee. Committee 2 is composed of Brian Miller, chair (who is also on the Downtown Salisbury

Board), Mitzi Clement, Sean Reid, and Jerry Wilkes. Rodney Queen and Jeff Smith said they would also like to serve on this committee, and they were added.

The committee scheduled its first meeting for Thursday, February 19, at 8:00 a.m., in the 1st floor conference room of City Hall. Primarily, the committee will be looking at zoning maps of the area. A future meeting will probably involve a walking tour, with a discussion of what businesses, if any, would become nonconforming as a result of a zoning change from B-6 to B-5.

Paintball Facilities – Committee 2, Brian Miller, Chair,

Planning Board decided unless someone wanted to pursue outdoor paintball facilities further, it would be dropped. Planning Board has already made a recommendation on indoor paintball facilities, which City Council will conduct a Public Hearing on at its February 17 meeting.

Brian Miller made a motion not to proceed with outdoor paintball facilities and **Jerry Wilkes** seconded the motion with all members voting AYE. (10-0)

Ethical Principles Committee

Ethical Principles Committee set their meeting for Thursday, February 19, at 9:00 a.m. (immediately following the Downtown Rezoning Committee), in the 1st floor conference room of City Hall.

OTHER BUSINESS

Downtown Parking

Fred Dula wanted to mention the need for parking decks, as had been presented in the Downtown Master Plan. **Jerry Wilkes** agreed that there was indeed a problem with sufficient downtown parking.

Brian Miller said there is an active committee of Downtown Salisbury, Inc. that is working on a solution, including the consideration of the block behind The Plaza.

From the audience, **Randy Hemann** said there are 300 to 500 spaces in downtown, with redevelopment, as shown in the Downtown Master Plan.

Land Development Ordinance Committee

Rodney Queen, one of the two Planning Board members on this committee, gave a report on the committee's February 5 meeting. He said that the meeting was primarily for the purpose of introducing members of the Land Development Ordinance Committee. Craig Lewis, from the Lawrence Group, spoke briefly on the scope of what would be

presented, as well as an overall timeframe. The next committee meeting was scheduled for February 19.

Preview of Planning Board's February 24 Meeting

Jason Walser, from the LandTrust of Central North Carolina, was not able to speak to the Planning Board at the January 27 meeting, which was canceled due to snow. Jason has agreed to talk about environmental matters at the Planning Board's next meeting on February 24. Items of interest to the Board would include air quality, water quality, floodplains, greenways, etc. The focus of the 15 or 20 minute talk will be about how Salisbury fits into the overall environmental picture.

Upcoming Elections of New Officers

At the next meeting a nominations committee will be formed.

Paving of Stubouts

Rodney Queen spoke briefly on the required paving of stubouts, which may not be necessary or even preferable if connectivity never happens.

New Secretary to the Planning Board

The new Planning Board Secretary is Diana Moghrabi, who was introduced to the Board at the last meeting. However, it is necessary that a secretary be voted as the Official Planning Board Secretary to take Minutes and perform other duties of the secretary. The Board unanimously voted Diana Moghrabi as its new secretary.

There being no further business to come before the Board, the meeting was adjourned.

Chairman

Secretary